

AO 91 (Rev. 08/09) Criminal Complaint

FILED**UNITED STATES DISTRICT COURT**

NOV 5 2021

for the

Northern District of Oklahoma

Mark C. McCartt, Clerk
U.S. DISTRICT COURT

United States of America

v.

Case No.

21-mj-778-CL

JIMMY GENE KELLY, Jr.*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 11/1/2021 in the county of Ottawa in the
Northern District of Oklahoma, the defendant(s) violated:*Code Section*
18 U.S.C. § 1151, 1153, 1111
18 U.S.C. § 924(j)(1)*Offense Description*
Murder in the First Degree, in Indian Country
Causing Death by Using and Discharging a Firearm During and in Relation to
a Crime of Violence

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.
*Complainant's signature*Special Agent Jeremy Bauer FBI
Printed name and title

Sworn to before me by phone.

Date: November 5 2021
*Judge's signature*City and state: Tulsa, OKChristine D. Little, United States Magistrate Judge
Printed name and title

**Affidavit in Support of an Arrest Warrant
in the Northern District of Oklahoma**

I, Special Agent Jeremy R. Bauer, being duly sworn under oath, do hereby depose and state:

INTRODUCTION AND AGENT BACKGROUND

1. I have been employed as Special Agent with the Federal Bureau of Investigation since September 2015. As a result of my employment with Federal Bureau of Investigation, my duties include, but are not limited to, the investigation and enforcement of robberies, kidnappings, violent fugitives, special jurisdictional matters.

2. As part of my duties as a Special Agent, I investigate criminal violations relating to crime in Indian Country, to include Murder in the First Degree in Indian Country in violation of 18 U.S.C. §§ 1151, 1153, 1111 and Causing Death by Using and Discharging a Firearm During and in Relation to a Crime of Violence in violation of 18 U.S.C. § 924(j)(1). I have received training in the investigations of Federal crimes.

3. The facts and statements in this affidavit are based in part on information provided by other law enforcement officers and on my personal observations and training and experience as a Special Agent with the Federal Bureau of Investigation. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. It is my belief that a Indian male known as JIMMY GENE KELLY JR, DOB xx-xx-1970; SSN xxx-xx-8345, has violated 18 U.S.C. §§ 1151, 1153, and 1111-Murder in the First Degree in Indian Country, and 18 U.S.C. § 924(j)(1)-Discharging a Firearm During and in Relation to a Crime of Violence in that on or about November 1, 2021, JIMMY GENE KELLY JR did murder Toni Moran a non-Indian female, in the Northern District of Oklahoma. The homicide took place within tribal land, i.e. Ottawa County, within the boundaries of Quapaw Reservation, which is within "Indian Country," as that term is defined under 18 U.S.C. § 1151.

PROBABLE CAUSE

5. On 11/1/2021, the Ottawa County Sheriff's Office was made aware of a deceased female that had been located in the area of South 560 and East 30 road in Ottawa County, which was within the Quapaw Reservation. The body was located by a worker in the area, who notified law enforcement. The Sheriff and Undersheriff proceeded to the area to determine if their assistance was needed. The body of the deceased was found next to a pond that was west of 560 road, down a gravel drive. The Sheriff obtained the permission of Quapaw Tribal Marshals and entered the scene. The victim was observed to be a white female that had injuries to her head and appeared to have injuries to her upper torso. The Sheriff then noticed several tattoos on the body and pictures were taken of the tattoos in order to attempt to assist the Quapaw Nation Marshal service with making an identification. Later on the same day, the Sheriff was made aware of a person needing to make a report on a

missing person, TONI MORAN. The Sheriff looked up MORAN in their computer and found booking photos of MORAN. The Sheriff observed the same tattoos on MORAN's neck and face that matched those that the victim had. At approximately 1536, the Sheriff sent the booking photos and MORAN's information to the Quapaw Nation Marshal Service.

6. MORAN was found to have been shot twice; once in the head and once in the torso. According to preliminary reports by the Oklahoma State Bureau of Investigation crime scene investigators and the Medical Examiner for the State of Oklahoma, one wound has an entry point on MORAN's mid-abdomen, on the left side, under the armpit, towards the front of the body with a shored exit wound on the right side of the body, under the right armpit. A bullet was recovered within the victim's bra. The second bullet wound was to the upper left orbital socket, near the left eyebrow. There was no exit wound and the bullet was recovered by the medical examiner within the victim's head.

7. On November 1, 2021, Investigators interviewed the brother of MORAN, FLOYD MCKIBBEN. MCKIBBEN was attempting to file a missing person report on MORAN, as he had not seen her since approximately 9:30pm on October 31, 2021. MCKIBBEN stated that MORAN had been living with him after moving out of her apartment. MCKIBBEN stated that he had last seen MORAN at approximately 9:30pm while she was at home. MCKIBBEN then went to bed. When MCKIBBEN arrived home from work about 3:15 PM on November 1, 2021, MORAN was still not home, and it appeared that her cat had not been let out of the

laundry room. MCKIBBEN stated that MORAN told him that JIMMY KELLY was supposed to come pick her up on the night of October 31, 2021 and had been messaging with him that night, but MORAN had not left by the time MCKIBBEN went to sleep.

8. On November 1, 2021, Investigators interviewed KELLY at his residence. KELLY stated that he had been messaging with MORAN on Facebook Messenger on the evening of October 31, 2021, and they had been planning to meet. KELLY stated that prior to meeting with MORAN, he had been drinking and had fallen asleep. At approximately 11:00PM, KELLY woke up and called MORAN, saying that it was now too late to meet up and he would call her in the morning to help her move. KELLY provided that MORAN had sent him a threatening message that ERICA LOGAN had sent to MORAN. KELLY no longer had the message, as he had deleted his messaging history, but stated that the message content was something to the effect of, "You're a piece of shit. Mike was never your friend. Leave Mike alone or I am going to max you out."

9. On the same day, KELLY's wife, CHARLANA KELLY, was also interviewed by Investigators. CHARLANA stated she had only gone out for about an hour on the evening of October 31, 2021 to pick up her grandson and get dinner. CHARLANA stated that with the exception of that hour that she was not home, she knew KELLY to be home all night. CHARLANA advised that she was out of the residence from approximately 8:30 PM to 9:30 PM.

10. Investigators interviewed ERICA LOGAN on November 2, 2021. LOGAN stated that she was the former roommate of MORAN. LOGAN and MORAN lived at 207 M Street SE, Apartment #7, Miami, OK with two other individuals, MICHAEL BARDT and DUSTIN MYERS. LOGAN stated that MORAN had moved out. LOGAN admitted to sending MORAN a message, but said that she did not threaten to max her out. LOGAN stated that she was not responsible for MORAN's death. LOGAN stated that she did have a firearm at one point, but gave it away to a woman name DONNA who works at the laundry mat. LOGAN described the gun as a small silver gun, but added that she had never fired a gun and did not believe that the gun worked. LOGAN was re-interviewed that same day and provided consent for a search of her phone. LOGAN showed the Facebook message that she had sent to MORAN on October 28, 2021 that she believed to be the message that was referred to as a threat. The message read, "Leave Michael alone. And don't try and threaten him with jim Kelly's gay ass now u have me to worry about me he loves me and I can't stand it that's all this is over." LOGAN stated that she sent the message because KELLY had threatened MICHAEL BARDT. LOGAN stated that KELLY told BARDT that if he didn't leave MORAN alone, KELLY knew how to get rid of a body. LOGAN believed that MORAN and KELLY were sleeping together, and believed that KELLY's wife did not know.

11. On November 2, 2021, Investigators interviewed JOSH MARTIN who provided that sometime about a month ago LOGAN came to his apartment and discussed an incident where MORAN had pulled a knife on LOGAN. LOGAN

stated that she did not have to worry about that happening again though and showed MARTIN a small silver pistol.

12. On November 2, 2021, Investigators interviewed DONNA SHARBUTT. SHARBUTT stated that she had purchased a gun from LOGAN on or about October 1, 2021. At the time of the interview, she did not know where the gun was located, however later she located the gun and provided it to law enforcement.

13. On November 3, 2021, video was obtained from Garrett's Mini Storage, located at 56050 E 50 Road, Miami, Oklahoma 74354. A review of that video shows what appears to be a white Dodge pickup truck traveling northbound past the storage facility at approximately 11:26 PM on October 31, 2021. The pickup was followed by a silver Dodge Charger. At approximately 11:33 PM the white pickup travels back southbound. At approximately the 12:26 AM on November 1, 2021 the white pickup is seen driving back northbound. At approximately 12:41 AM, both the white pickup and Dodge Charger are seen driving back southbound past the storage facility. Both vehicles appear to turn east on East 50 Road. According to open-source mapping software, the storage facility is located approximately 1.9 miles from the location of where MORAN's body was found, with an approximate driving time of 4 minutes.

14. According to law enforcement databases, Oklahoma tag number KNR480 is a 2009 silver Dodge Charger registered to CHARLANA KELLY at 518 G Street NE, Apartment H, Miami, OK. On November 1, 2021, Investigators saw CHARLANA walk out to the Dodge Charger, which was parked at her residence in Miami, OK.

15. Oklahoma tag number IZA855 is a 1995 white Dodge Ram registered to JIMMY KELLY at 117 N Mickey Mantle BLVD, Commerce, OK. On November 3, 2021, Investigators observed KELLY operating the white Dodge pickup truck. Both the pickup truck driven by KELLY and the pickup seen on surveillance video have what appear to be the same silver running boards and damage to the body.

16. On or about November 1, 2021, a non-law enforcement witness known to the Government (W) was working as a confidential source for law enforcement. W is a multi-time convicted felon. W contacted a Task Force Officer about a conversation W had with KELLY about KELLY having killed someone. W knew KELLY from prison, as he had previously served prison time with him. The Task Force Officer encouraged W to contact OSBI.

17. On November 3, 2021, OSBI Investigators received a phone call from W. W stated to OSBI Investigators that KELLY told him/her that he had killed someone. W said that he/she knew JIMMY KELLY and that KELLY was currently traveling to his/her house and wanted to purchase a firearm. KELLY allegedly had a .38 Special revolver in his possession. W advised that he/she would speak with KELLY and record the conversation. KELLY then went to W's residence and W recorded the conversation.

18. Later on November 3, 2021, W met with law enforcement officers in Pryor, Oklahoma. W provided a recording he/she had made of the conversation with KELLY using W's own recording device. Law enforcement listened to the recording during which KELLY stated he had killed the victim by shooting the

victim in the head and concealed the body near a body of water. KELLY also said that CHARLANA shot the victim as well. OSBI Agents learned by listening to the recording and later interviewing W that W had initially provided the revolver and ammunition to KELLY in October of 2021.

19. On November 3, 2021, based on information known to law enforcement, KELLY was taken into custody by law enforcement in Pryor, Oklahoma. At the time of apprehension, KELLY had a loaded Rohm Model RG40 .38 Special (Serial Number 019164) in his waistband.

20. KELLY was re-interviewed by investigators at Pryor Police Department. KELLY was read his *Miranda* rights and refused to sign the provided form, but agreed to speak with law enforcement. KELLY stated he had a relationship with MORAN that caused his wife, CHARLANA, to be jealous. KELLY arranged for a confrontation to take place between CHARLANA and MORAN. KELLY and CHARLANA drove their vehicles, a white 1995 Dodge Ram and a silver 2009 Dodge Charger, to the area of area of South 560 and East 30 road. CHARLANA remained at that location while KELLY drove his white 1995 Dodge Ram back to Miami and picked up MORAN. KELLY and MORAN then traveled to the area of area of South 560 and East 30 road, where CHARLANA was waiting. KELLY stated a confrontation occurred between CHARLANA and MORAN during which MORAN stated she was better off dead. KELLY said he then drew a revolver he had, cocked the hammer, and handed it to MORAN. KELLY stated MORAN then held the revolver to her head and shot herself in the

head. KELLY said he was so upset the MORAN had shot herself that he then picked up the revolver and fired a second shot into MORAN's torso. KELLY stated he then drug MORAN's body off the road and attempted to conceal her body. KELLY and CHARLANA then left the area. KELLY stated he later returned to MORAN's body to retrieve her cell phone and dispose of it. KELLY stated he returned a second time with the intention of burning MORAN's body, bringing with him a bucket containing several gallons of gasoline. KELLY stated he was unable to locate MORAN's body at this time, so he dumped the gas out, left the scene, and threw the bucket out of his truck at unknown location.

21. On November 3, 2021, CHARLANA was re-interviewed by Investigators. CHARLANA was read her *Miranda* rights and refused to sign the provided form but continued to speak to law enforcement. CHARLANA again stated that she was gone for approximately 1 hour, from approximately 9:30 PM to 10:30 PM, to pick up her grandson and get dinner on the night of October 31, 2021. When she returned home, KELLY was at the house. CHARLANA then fell asleep on the couch. She awoke sometime around 3:00 AM to 3:30 AM and went to the bedroom and KELLY was still at the house. CHARLANA later admitted that on November 1, 2021, KELLY either called or texted her and told her that if anyone asked, he was home with her all night (meaning the night of October 31, 2021). CHARLANA admitted to Investigators that although she previously told them that KELLY was home all night, she did not actually know if he was. CHARLANA denied being at the crime scene and denied driving her car to the crime scene.

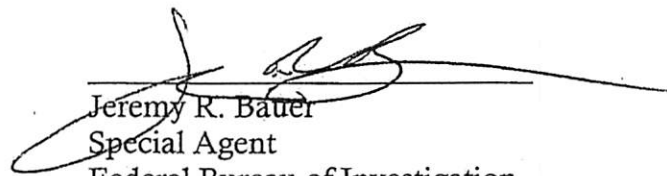
CHARLANA did not know how her car could have gotten out there. CHARLANA denied shooting anyone.

22. According to information received from the Cherokee Nation, JIMMY GENE KELLY, JR. is a registered citizen of the Cherokee Nation and has some degree of Indian blood. The body of TONI MORAN was located within the historical boundaries of the Quapaw Indian Reservation.

CONCLUSION

Based on the information set forth in this affidavit, I submit there is probable cause to believe that JIMMY GENE KELLY JR has violated 18 U.S.C. §§ 1151, 1153, and 1111 and 18 U.S.C. § 924(j)(1).

Respectfully submitted,


Jeremy R. Bauer
Special Agent
Federal Bureau of Investigation

Subscribed and sworn via phone on the 5th day of November, 2021.


UNITED STATES MAGISTRATE JUDGE